

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Santos Brewster Cano, # 41977-179,

Petitioner,

v.

Michael Pettiford,

Respondent.

C/A No. 3:06-1906-CMC-JRM

OPINION AND ORDER

Plaintiff, who is incarcerated at the Federal Bureau of Prisons in Bennettsville, South Carolina, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 on June 28, 2006. Petitioner is requesting a medical transfer to a Bureau of Prisons federal medical facility in Fort Worth, Texas, or home confinement under 18 U.S.C. § 3621(b). Respondent filed a motion to dismiss or, in the alternative, a motion for summary judgment on September 5, 2006. Since Plaintiff is proceeding *pro se*, he was specifically advised by court order of the summary judgment procedure and the possibility of dismissal of the case if no response was filed. Plaintiff filed a response on September 23, 2006.

In accordance with this court's order of reference, 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02(B)(2)(c), this matter was referred to United States Magistrate Judge Joseph R. McCrorey for a Report and Recommendation.

This court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must ‘only satisfy itself that there is no clear error

on the face of the record in order to accept the recommendation.”) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Based on his review of the record, the Magistrate Judge has recommended that Respondent’s motion for summary judgment be granted as Petitioner has failed to exhaust his administrative remedies, and his requests for a compassionate discharge and transfer to a federal medical center are not cognizable. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Plaintiff has filed no objections and the time for doing so has expired.

After reviewing the petition, the motion, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the Report and Recommendation of the Magistrate Judge is adopted and incorporated by reference.

IT IS HEREBY ORDERED that Respondent’s motion for summary judgment is granted as Petitioner has failed to exhaust his state remedies, and his requests for a compassionate discharge and transfer to a federal medical center are not cognizable.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
September 4, 2007